

## EXHIBIT D

Page 1  
April 27, 2021

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
FRED LEE & ANN LEE,  
Plaintiffs,  
-against- Docket Number: 1:20-cv-03191  
UNION MUTUAL FIRE INSURANCE COMPANY,  
Defendant.  
-----X

VIA ZOOM

April 27, 2021  
10:00 a.m.

DEPOSITION of FRED S. LEE, in the  
above-entitled action, held at the above time and  
place, taken before Karen McConnell, a Notary  
Public of the State of New York, pursuant to  
Court Order and video stipulations between  
Counsel.

Page 2  
April 27, 2021

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2

2 APPEARANCES:

3

4 GREENBLATT & AGULNICK, P.C.  
5 Attorneys for Plaintiff  
6 55 Northern Boulevard -Suite 302  
7 Great Neck New York 11021

8

9 BY: SCOTT AGULNICK, ESQUIRE

10

11

12 HURWITZ & FINE, P.C.

13

14 Attorneys for Defendant  
15 575 Broad Hollow Road  
16 Melville, New York 11747

17

18

19 BY: CHARLES ENGLERT, ESQUIRE

20

21

22 FILE NUMBER:

23

24

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Page 3  
April 27, 2021

1

3

2 FEDERAL STIPULATIONS

3 IT IS HEREBY STIPULATED AND AGREED BY AND BETWEEN  
4 (AMONG) COUNSEL FOR THE RESPECTIVE PARTIES  
5 HEREIN, THAT FILING AND SEALING BE AND THE SAME  
6 ARE HEREBY WAIVED.

7

8 IT IS FURTHER STIPULATED AND AGREED THAT ALL  
9 OBJECTIONS, EXCEPT AS TO THE FORM OF THE QUESTION  
10 SHALL BE RESERVED TO THE TIME OF THE TRIAL.

11

12 IT IS FURTHER STIPULATED AND AGREED THAT THE  
13 WITHIN DEPOSITION MAYBE SWORN TO AND SIGNED  
14 BEFORE ANY OFFICER AUTHORIZED TO ADMINISTER AN  
15 OATH, WITH THE SAME FORCE AND AFFECT AS IF SIGNED  
16 AND SWORN TO BEFORE THE COURT.

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1 FRED S. LEE 4

2 F R E D S. L E E, having first been duly sworn  
3 by a Notary Public of the State of New York, was  
4 examined and testified as follows:

5 EXAMINATION CONDUCTED BY MR. ENGLERT:

6 Q Please state your name for the  
7 record.

8 A Fred S. Lee.

9 Q What is your address?

10 A 45-54 193rd Street, Flushing, New  
11 York 11358.

12 Q Good morning, Mr. Lee. My name is  
13 Charles Englert. I am here on behalf of Union  
14 Mutual Fire Insurance Company in reference to a  
15 lawsuit that you commenced against them. The  
16 lawsuit concerns an insurance claim for fire  
17 damage, which occurred on March 2nd of 2020 at  
18 39-11 27th Street, Long Island City, New York  
19 11101. I want to go over a couple of ground  
20 rules before we begin the questions. Please  
21 answer all questions verbally. No nods of the  
22 head or shaking of head, because the court  
23 reporter is only taking down your verbal  
24 testimony today. In addition to that, because  
25 this is virtual there maybe a little bit of a

1 FRED S. LEE 5

2 lag. If you could wait a second or two prior to  
3 answering my question I would appreciate that so  
4 we make sure everybody is caught up; do you  
5 understand?

6 A Yes, sure. Thank you.

7 Q If you need a break at any time  
8 during the deposition you are free to ask for  
9 one. The only request that I make is that if I  
10 have a question pending that you answer that  
11 question prior to requesting a break. If you  
12 need speak to your attorney, I know that you are  
13 at his office. If you need speak to him at any  
14 time you can always ask for a break to speak to  
15 him off-the-record, or whatever you need to do.  
16 At the same time, I ask that you answer any open  
17 pending question prior to requesting a break to  
18 do so. I just ask that you don't guess. If I  
19 ask for something that can reasonably estimate  
20 that is okay. A perfectly acceptable answer is  
21 that you don't remember or that you are unsure.  
22 We are not trying to trick you today. We are  
23 just trying on get a nice clear record for the  
24 remainder of the case. If you don't know an  
25 answer tell me that you don't know and we will

1 FRED S. LEE 6

2 move on, and that is perfectly okay.

3 | A Okay.

4 Q Do you understand these instructions  
5 as I have given them to you?

6 A Yes, sure.

7 Q Great. One last thing. Can we  
8 agree that when I say the premises I am referring  
9 to the property located apartment 39-11 27th  
10 Street in long island City, New York?

11 A Yes.

12 Q If, at any time, you don't  
13 understand something or you would like me to  
14 rephrase something let me know and I will be  
15 happy to do so.

16 A Okay.

17 Q State your full name?

18 A Fred S. Lee.

19 Q The address that you just gave to  
20 the court reporter, is that your primary  
21 residence?

A It is mine, yes.

23 Q Have you taken any medications or  
24 other drugs that the past 24 hours that may  
25 impact your ability to testify today?

FRED S. LEE

1  
2 A I don't think so.  
3 Q What is your current occupation?  
4 A Retired banker.  
5 Q Congratulations. How long have you  
6 been retired?  
7 A About ten years, yes.  
8 Q Great. Now, these next couple of  
9 questions I ask of everybody. I don't mean any  
0 offense by them. Have you ever filed for  
1 bankruptcy?  
2 A No, sir.  
3 Q Have you ever been convicted of a  
4 crime?  
5 A Not at all.  
6 Q Have you ever given a deposition  
7 before?  
8 A No.  
9 Q Have you ever testified in court  
10 before?  
11 A No.  
12 Q Did you review any documents either  
13 electronically or in paper form prior to today's  
14 deposition?  
15 A Not all of them.

1 FRED S. LEE 8

2 Q Could you briefly explain what you

3 reviewed?

4 A I reviewed my deed.

5 Q Did you review anything else or just

6 the deed?

7 A Just the deed.

8 Q Now, other than your attorney, did

9 you speak with anyone about today's deposition?

0 A No, sir.

1 Q I want to move onto asking you a

2 couple of questions about the premises. When did

3 you purchase the premises?

4 A July 2013.

5 Q Why did you purchase the premises?

6 A You said why?

7 Q Yes. For what purpose?

8 A For the investment.

9 Q Did you use a relator to purchase

10 the premises?

11 A Yes.

12 Q Do you recall the relator's name?

13 A I could not hear you.

14 Q Do you recall the relator's name?

15 A No, I don't recall.

1 FRED S. LEE 9

2 Q Prior to purchasing the premises,  
3 did you review any apartments?

4 A Only the purpose of retirement, I  
5 don't know.

6 Q Did you like review a listing or  
7 like a relator's one-page sheet describing the  
8 property prior to purchasing it?

9 A I cannot recall.

10 Q Okay. As you were purchasing the  
11 premises, how was it described to you?

A It is a two-family house.

13 Q Did you do a walk through inspection  
14 of the premises prior to closing on it?

15 A Yes, sir.

16 Q Now, I am going to ask you to  
17 describe certain aspects of it. How many stories  
18 is the premises?

19 A It is a two-story building with a  
20 finished basement.

21 Q What is on the second story?

22 A The second story is a two-bedroom  
23 apartment.

24 Q How many bathrooms are on the second  
25 story?

1 FRED S. LEE 10

2 A One bathroom.

3 Q Is there a kitchen on the second

4 story?

5 A Yes, sir.

6 Q What is on the first story of the

7 premises?

8 A Would you please tell me the

9 question? The first floor?

10 Q What is on the first floor?

11 A The first floor apartment.

12 Q How many bedrooms is that apartment?

13 A Two bedrooms.

14 Q How many bathrooms?

15 A One bathroom.

16 Q Is there a kitchen on the

17 first-story apartment?

18 A Yes, sir.

19 Q What is in the basement?

20 A The basement a finished basement.

21 Q Are there like separate rooms or is

22 it just one large space?

23 A It is a partition there.

24 Q Is there a bathroom in the basement?

25 A Yes.

1 FRED S. LEE 11

2 Q Is this a full bath or just a  
3 toilet?

4 A And a shower.

5 Q Now, since you have purchased the  
6 premises in July of 2013, have you made any  
7 changes to the premises, and by changes I mean  
8 layout changes?

9           A           No, sir. Not at all. I didn't  
10      change anything.

11 Q Okay. I want to jump to speaking  
12 about the fire loss that is the basis for your  
13 insurance claim. Was there a fire at the  
14 premises on March 2nd of 2020?

15 A Yes, sir.

16 Q When did you become aware of the  
17 March 2nd of 2020 fire?

18           A           I arrived over there to pick up my  
19 mail, and I can smell something. I knocked on  
20 the door on the first floor and nothing. Then I  
21 go up to the second floor and the smell is  
22 coming. When I tried to open I cannot open. I  
23 called immediately 911.

24 Q With regard to making an insurance  
25 claim for fire damage, who did you notify first?

1 FRED S. LEE 12

2 A I called the insurance agent.

3 Q What is the name of the insurance  
4 agent that you called?

5 A Jin Mil Kim.

6 Q Mr. Kim, does he work at an  
7 insurance agency?

8 A Yes.

9 Q Do you know the name of the agency?

10 A It is a Pro Insurance Company, or  
11 something like that.

12 Q Now you want to talk about insurance  
13 for the premises. How did you go about selecting  
14 insurance for the premises?

15 MR. AGULNICK: Note my objection to  
16 the form. Are you talking about when he  
17 originally purchased the property or this policy  
18 with Liberty Mutual?

19 MR. ENGLERT: I will rephrase it.

Q For the policy at issue, how did you go about selecting insurance for the premises?

22 A When I u purchased? That is the time  
23 that you are talking about now, right?

24 Q Yes.

25 A Mutual Union you are talking now?

1 FRED S. LEE 13

2 | Q Yes.

3 MR. AGULNICK: Correct.

4 A I called Jin Mil Kim telephone  
5 directory, and then I found out.

6 Q So, is it fair to say that Mr. Kim  
7 selected the insurance company based on your  
8 request to him for an insurance policy for the  
9 premises?

10 A Correct.

11 Q How long had you been working with  
12 Mr. Kim's insurance company?

13 A That was the first time.

14 Q By the first time, what do you mean  
15 by that?

16 A When I purchased it through him that  
17 is when he first done the transaction to me.

18 Q Do you remember what year that was?

19 A I cannot recall, sorry.

20 Q Okay. When you applied for an  
21 insurance policy, do you recall having to give  
22 the insurance agent or broker information about  
23 the premises?

24           A           I don't understand you. Would you  
25 please say that again? I couldn't hear you.

1 FRED S. LEE 14

2 Q When you applied for insurance for  
3 the premises, do you recall having to give your  
4 agent or broker the information about the  
5 premises?

6 A Not at all.

7 Q Do you recall ever having to tell  
8 the agent how many or what the premises was  
9 comprised of like how many floors it was?

10 A He asked me how many family.

11 Q Okay. Did the broker or agent ever  
12 come to the premises and physically inspect it?

13 A No, sir.

14 Q Did you know what I mean the broker?

15 A I am sorry. You are asking the  
16 broker, the insurance broker?

17 Q Yes, correct. Did the insurance  
18 broker ever ask for photographs of the premises?

19 A No, sir.

20 Q I would like to introduce an  
21 exhibit.

22 MR. ENGLERT: I would like to share  
23 my screen. Can we bring up the document with  
24 Union Mutual Fire Insurance Company on the top?

25 MR. AGULNICK: Yes.

1 FRED S. LEE 15

2 Q All right. Mr. Lee, don't read it  
3 out loud, but can you see everything on that  
4 page?

5 A Yes, I can see that.

6 Q It is legible to you is what I am  
7 getting at?

8 A Yes.

9 Q Have you ever seen this document  
10 before?

11 A Yes.

Q What is the document?

13 MR. AGULNICK: Can you scroll down  
14 to see the full document that you are referring  
15 to?

16 MR. ENGLERT: Yes.

17 MR. AGULNICK: You have a  
18 ninety-eight-page PDF, and you are showing him the  
19 first page where it says insurance quote.

20 MR. ENGLERT: My question is going  
21 to be confined about the first sixty-three pages.  
22 Let him read the first six pages and then go from  
23 there, is that okay?

24 MR. AGULNICK: Yes.

25 Q Mr. Lee, just take a look at this

1 FRED S. LEE 16

2 page and once you are done let me know and I will  
3 scroll to the next page. If you need me to zoom  
4 in or out, please let me know.

5 A Make it bigger.

6 Q How is that?

A little bit more, please. Thank you.

9 Q Let me know when you need me to  
10 scroll down.

11 A Yes.

12 Q I am going to stop here. Like I  
13 said, your attorney will get a full copy of this.  
14 I will represent to you that is a full copy of  
15 your initial application for insurance with Union  
16 Mutual identified by policy 314PK49300-01. You  
17 will be able to have a full document. I will not  
18 ask any questions about the actual coverages. If  
19 I will make sure that you have a chance to  
20 completely review it before I u ask you a  
21 questions about it.

22 A Okay.

23 Q Did you fill out an application for  
24 insurance independently?

25 A I cannot recall.

Page 17  
April 27, 2021

1 FRED S. LEE 17

2 Q Did you provide any information to  
3 an insurance agent or broker in order to fill out  
4 an application for insurance for the premises on  
5 your behalf?

6 A I cannot recall. I cannot remember.

7 Q Okay. I would like to focus on page  
8 four of this document. I am going to scroll down  
9 to page four.

10 A Okay.

11 Q Can you see my cursor?

12 A Can you move around, please. Yes.

13 Q The question right next to my cursor  
14 is, could you read that question out loud?

15 A "How many apartment units are  
16 there?" Two. The answer would be two.

17 Q The answer would be two?

18 A Yes.

19 Q Did that response of two apartment  
20 units accurately represent the number of  
21 apartment units at the premises on June 27th of  
22 2017?

23 A Yes.

24 Q Now, moving away from the document.  
25 On June 27th of 2017, what was the layout of the

1 FRED S. LEE 18

2 second floor of the premises?

A The second floor apartment.

4 Q On that same date, what was the  
5 layout of the first floor of the premises?

6 A Yes, the same.

7 Q On June 27th of 2017, what was the  
8 layout of the basement of the premises?

9 A You can see the pictures.

10 Q I just want to know what you recall.  
11 If don't recall the layout of the basement as of  
12 that date let me know and that is fine.

13 MR. AGULNICK: Objection to the  
14 form. He testified that he didn't change  
15 anything. You can answer if you understand his  
16 question.

17 Q I will ask it again. After June  
18 27th of 2017, did any representative of Union  
19 Mutual inspect the premises?

20 A I think so.

21 Q Were you present for that  
22 inspection?

23 A I think the insurance inspector they  
24 took my picture over there.

25 | Page

1 FRED S. LEE 19

2 | A And we talk.

3 Q My question was, were you at the  
4 premises when the inspector was there?

5 A Yes, sir.

6 Q Did you, for lack of a better term,  
7 shadow the inspector as he walked around the  
8 premises?

A Would you please repeat again.

10 Q Yes. When the inspector from Union  
11 Mutual was at the premises, did you follow him  
12 around or shadow him as he inspected the  
13 premises?

14 A I guess so, yes.

15 Q Do you recall what portions of the  
16 premises he inspected?

17 A He walked through and then took a  
18 picture.

19 Q Okay. Did he go into the first  
20 floor apartment?

21 A I cannot remember.

22 Q Did he go into the second floor  
23 apartment?

24 A I cannot remember.

Q Did he go into the basement?

1 FRED S. LEE 20

2 A Yes, he did.

3 Q Did you make any physical notes or  
4 take any photographs during the inspection for  
5 yourself?

6 A I think he took pictures.

7 Q Right. Did you take any pictures or  
8 any photos for yourself?

9 A No.

10 Q All right. I would like to  
11 introduce our second exhibit. It looks very  
12 similar, but I promise it is something different.

13 MR. ENGLERT: We will like to have  
14 this marked as Defendant's B. The prior one was  
15 Defendant's A.

Q Do you want me to zoom out?

17 A It is okay.

18 Q I am going to do the same thing and  
19 scroll through the pages that are going to be  
20 used in my questions. Read what is on the screen  
21 and then let me know when you are okay for me to  
22 scroll through again like last time.

23 A Thank you.

24 Q That is the last page. Going back  
25 to the first page of the document, do you

1 FRED S. LEE 21

2 | recognize this document?

3           A           It is a copy of the Union Mutual  
4       Fire Insurance sent to me. The same thing, the  
5       application.

6 Q I don't know what Union Mutual sent  
7 to you. If you don't recall seeing this document  
8 before, please let me know.

9 MR. AGULNICK: Don't guess.

10 A I cannot recall.

11 Q Okay. If I represented to you that  
12 this was a renewal application for your Union  
13 Mutual commercial package policy for the  
14 premises, would you have any reason to dispute  
15 that?

16 MR. AGULNICK: Objection to the  
17 form. He says that he does not recall. Over my  
18 objection he can answer.

19           A         Would you please repeat your  
20 question again.

21 Q Would you have any reason to dispute  
22 that this is a renewal application for commercial  
23 insurance submitted in relation to a Union Mutual  
24 Insurance Policy?

25 MR. AGULNICK: Same objection. You

1 FRED S. LEE 22

2 | can answer.

3 A I cannot remember.

4 | Q Okay.

5 MR. AGULNICK: For the record, we  
6 generally would not have a reason to dispute a  
7 representation that you made to us. He can only  
8 answer what he knows.

9           Q           Mr. Lee, this document is titled  
10          application for commercial insurance. The  
11          address under risk location where my cursor is on  
12          the document right now, 37-11 27th Street, is  
13          that the same address as the premises?

14 A Yes, correct.

15 Q Now I am going to go to page 2 of  
16 the document, and specifically the second  
17 question where my cursor is, can you read the  
18 question allowed and then read the answer?

19 A "How many apartments unit are there?  
20 Two." That is correct.

21 Q To the best of your knowledge, that  
22 accurately represented the number of apartment  
23 units at the premises on May 21st of 2018?

24 A Correct.

25 | Q Okay. Now I want to scroll down to

1 FRED S. LEE 23

2 the last page I showed you. I believe it is page  
3 six. The title of this page, could you read the  
4 title of the page underneath the company header?

5 A "Renewal Policy Application  
6 Signature Page."

7 Q Did you read this page as I was  
8 scrolling through the document?

9 A Yes.

10 Q Do you understand that this page is  
11 a certification page for a renewal application  
12 for commercial insurance?

13 A Yes.

14 Q Do you understand that by whoever  
15 signed this page and that is information in the  
16 application that is attached to is true and  
17 correct?

18 MR. AGULNICK: Note my objection to  
19 the extent that you are asking the witness to call  
20 for a legal conclusion, which is he is not  
21 qualified to make. Over the objection he can  
22 answer, if he understands.

23 A I think renewal application. I  
24 don't think I signed from my memory.

So, let me ask a couple of questions

1 FRED S. LEE 24

about your relationship with your insurance broker. When your policy of insurance for the premises is about to expire, would your insurance broker contact you prior to the expiration?

6 A Yes, correct.

7 Q Would your broker ask you whether or  
8 not you wanted to renew your current coverage?

9 A      Correct.

10 Q Would your broker ask for any  
11 additional information about the premises?

12 A I didn't get that question from the  
13 insurance agent at any time.

14 Q When discussing the renewal with  
15 your broker, did you provide any additional  
16 information?

17 A No, sir.

18 Q Now we are going to go through the  
19 same thing with the next exhibit.

20 MR. ENGLERT: This exhibit will be  
21 Defendant's exhibit C.

22 Q We are going to go through the same  
23 thing. I will scroll down when you tell me to.  
24 I would like you to review certain pages of this  
25 document.

1 FRED S. LEE 25

2 A Okay.

3 MR. ENGLERT: I am going to skip  
4 this last page, because it is inconsequential to  
5 this deposition.

6 Q That is the last page that we are  
7 going to discuss. So, we will represent that  
8 this is a renewal application for commercial  
9 insurance for the premises. First I want to go  
10 back to page six.

11 A Okay.

12 Q Could you read the title of this  
13 page?

14                   A                 "Renewal Policy Application  
15                   Signature Page."

16 Q What is the date?

17 A May 20th of 2019.

18 Q Could you just read the first  
19 sentence?

20 A "I hereby certify that the  
21 information provided in this application is true  
22 and that I have read and understand the  
23 provisions below."

24 Q Thank you. Now, do you see my  
25 cursor?

1 FRED S. LEE 26

2           A           Would you please move around? I  
3 could not see. Yes, I see it.

4 Q All right. Could you read from  
5 where my cursor is to the end of the paragraph.

A "I agree that signing these documents with my electronic signature has the same validity and affect as signing these documents by my hand. I understand and agree that by making a premium payment or by authorizing my insurance agent to do so, I am signing these documents and submitted them to Round Hill Express, LLC, with the intent to induce them to issue me a policy of insurance. I understand that these statements form the basis upon which this policy of insurance will be issued in the name of Union Mutual Fire Insurance Company and any subsequent denial by me of this electronic signature will render any such policy of insurance void and limit their liability to me to the return of any premiums received by them."

22 Q All right. At the bottom of that  
23 electronic signature page, could you read the  
24 name next to the text electronic signature of  
25 applicant, whose name is that?

FRED S. LEE

1 A Fred Lee.

2 Q Do you recognize the numbers next to  
3 the text electronic signature security digits?  
4

5 A No.

6 Q I want to go back to what has been  
7 marked as Exhibit B. We are going to look at the  
8 electronic signature page again. Could you read  
9 the date under Renewal Policy Application  
10 Signature Page?

11 A July 8th of 2018.

12 Q I am sorry. The date under the  
13 title of the page?

14 A May 21st of 2018.

15 Q All right. Next to electronic  
16 signature applicant, whose name is presented  
17 there?

18 A Fred Lee.

19 Q Going back to Exhibit A, do you need  
20 me to zoom in at all?

21 A Please. Okay.

22 Q How is that?

23 A Okay.

24 Q Could you read whose name appears  
25 next to electronic signature of applicant?

1 FRED S. LEE 28

2 A Fred Lee.

3 Q All right. Going back to Exhibit C,  
4 and I am going to scroll to page two of the  
5 exhibit, could you read the second question after  
6 the break in the page?

7                   A               How many apartment units are there  
8                   in two?

9 Q The date of this application is May  
10 20th of 2019, does that answer accurately  
11 represent the number of apartment units at the  
12 premises on May 20th of 2019?

13 A The same thing.

14 Q All right. So now I want to move to  
15 after the March 2nd of 2020 fire. I am going to  
16 put up some photographs.

17 MR. ENGLERT: We will have this one  
18 marked as Defendant's Exhibit C.

19 Q I am going to stop sharing, because  
20 we are not going to talk about these just yet.  
21 After you presented a claim to Union Mutual,  
22 could you explain what happened?

23 A What happened you mean?

Q I will rephrase. After you presented a claim to Union Mutual, did they

1 FRED S. LEE 29

2 contact you in any way or a representative of  
3 Union Mutual?

4 A Union Mutual never contacted us.  
5 Just the agent.

6 Q Say that again?

A I just communicate with the agent.

8 Q Did a representative from Union  
9 Mutual ever come to inspect the premises after  
10 the March 2nd of 2020 fire?

11 A I think so, yes.

12 Q Now, I am going to share what we  
13 will have marked as Defendant's exhibit D,  
14 Beltrani Consultants, Inc. Mr. Lee, can you see a  
15 document that has the Beltrani Consultants, Inc.  
16 on top of it?

17 A Yes, I can see that.

18 Q Great. I am just going to scroll  
19 out one. Now, Mr. Lee, we will represent to you  
20 that these are photographs from an inspection.  
21 The first photograph that you can see right now,  
22 does that accurately represent the premises?

23 A Yes.

24 MR. ENGLERT: Should I scroll  
25 through the photographs before I discuss them?

Page 30  
April 27, 2021

1 FRED S. LEE 30

2 MR. AGULNICK: Yes, if you don't  
3 mind.

4 MR. ENGLERT: No problem.

5 Q Once you had a chance to look at  
6 each photograph let me know and I will scroll to  
7 the next one, okay?

8 A Okay.

9 Q After looking through those photos,  
10 does or do those photographs accurately represent  
11 the interior of the premises on March 4th of 2020?

12 A Somebody took a picture, right?

13 Q Right. What I am asking is, do  
14 those photographs accurately represent what the  
15 inside of the premises looked like on March 4th  
16 of 2020?

17 A Yes.

18 Q I would like to focus first on one  
19 specific photo. Just one specific photo. This  
20 photo right here, do you see the photo marked  
21 with photo identification 15405-021?

22 A Yes, I can see that.

23 Q The date is March 4th of 2020?

24 A Yes.

25 Q In the description is basement

1 FRED S. LEE 31

2 kitchen?

3 | A Yes.

4 Q Does this accurately represent a  
5 part of the basement?

6 MR. AGULNICK: Objection to the  
7 form.

8 Q I will rephrase that. Is there any  
9 reason to dispute that this is a photograph of  
10 the basement on March 4th of 2020?

11 MR. AGULNICK: Objection to the  
12 form. You can answer.

13           A           Okay. All on one wall there is a  
14 stove over there not connecting.

15 Q That is what that portion of the  
16 basement looked like on March 4th of 2020?

17 A Yes.

18 Q Is it correct that on that there is  
19 a sink in the photograph?

20 A Yes.

21 Q There is some cabinetry; is that  
22 correct?

23 A Yes.

24 Q There is what appears to be a vent  
25 hood?

1 FRED S. LEE 32

2 A No vent.

3 Q How would you describe what is above  
4 the oven in the photograph?

5 A This is the oven just below the  
6 cabinet.

Q So, do you see my cursor?

8 | A Yes.

9 Q What is my cursor on, what would you  
10 call that?

11 A It is a cabinet.

Q      Below the cabinet I mean?

13 A Can you make enlargement?

14 Q Yes. How that is?

15 A This one is just.  
16 Q Okay. How does an individual enter  
17 the basement of the premises?

18           A         Would you please in detail ask the  
19 question again to me, please.

20 Q Yes. Is there a entrance and exit  
21 to the basement of the premises directly from the  
22 outdoors?

23 A You mean the front entrance and the  
24 rear entrance?

Well, what I mean is there a door

1 FRED S. LEE 33

2 that goes directly into the basement?

3                   A                 Yes, from the rear backyard they can  
4 go through boiler room and go to the, you know,  
5 to get to the meter. Gas and electric meter.  
6 They can get that through the finished basement.

7 Q Would an individual have to walk  
8 through a portion of the basement prior to  
9 getting to the electric meter?

10 MR. AGULNICK: Objection to the  
11 form. If he walks through where? You only asked  
12 about one entrance to the basement.

13 Q The rear entrance.

14           A           In order to get to the meter reading  
15        you walk in from the end of the finished  
16        basement.

17 Q The entrance to the outdoors is at  
18 the back of the premises; is that correct?

19 A The back entrance door to the  
20 backyard.

21 Q Okay. The electric and gas meter at  
22 the premises, where in the basement is that  
23 located; is it located in the front of the  
24 basement or the back?

25 MR. AGULNICK: Objection to the

1 FRED S. LEE 34

2 form. You asked about two three different items.

3 Q I will break it down. Is the gas  
4 meter located in the front of the basement?

5 A The front of a building basement.

6 Q Okay. That answers the question  
7 perfectly?

8 MR. AGULNICK: You want to know if  
9 somebody saw the gas meter they had to walk  
10 through the entire basement and you have to be  
11 deaf, blind and dumb not observe the entirety of  
12 the basement in doing so.

13 MR. ENGLERT: Yes.

Q            Other than the rear entrance, is there another entrance into the basement?

16 A Yes, from the front hallway.

17 Q That front entrance, do you have to  
18 go through an apartment or is it through a common  
19 hallway?

20 A There is one door going to the  
21 basement. The finished basement.

22 Q Right. Is that door in the first  
23 floor apartment?

24 A No, hallway the right side.

25 | Q Okay. So, is it correct to say that

Page 35  
April 27, 2021

1

FRED S. LEE

35

2 when you enter the premises from the outside on  
3 the front side of the premises you enter into a  
4 common hallway?

5 A Not directly to go through the  
6 hallway.

7 Q Okay. Now I want to put up our  
8 final exhibit. We are going to mark it as  
9 Exhibits E. This will be Defendant's exhibit E.  
10 Mr. Lee, is it correct that a representative from  
11 Union Mutual inspected the premises a second time  
12 after the fire loss?

13 A I don't know.

14 Q Okay. So, what we have in front of  
15 you are photographs from an inspection on April  
16 15th of 2020. Now, this first photograph, let's  
17 scroll through the photographs and the whole  
18 document. Then I will ask some specific  
19 questions.

20 A Yes.

21 Q Let me know when you want me to  
22 scroll down to the next photograph?

23 A Okay.

24 Q That is the last photograph going  
25 back to the first photograph, does that

1 FRED S. LEE 36

2 | accurately depict the premises?

3 A Yes.

4 Q So after March 4th of 2020, did you  
5 make any changes to the premises aside from  
6 remediation from the fire?

7 | A NO.

8 Q Focusing on this photograph, first  
9 of all, where in the premises was this photo  
10 taken?

11 A This I need to say the description  
12 says basement kitchen.

13 Q Ignoring the description, where was  
14 that taken?

15 MR. AGULNICK: Objection to the  
16 form. Is that in the basement, Mr. Lee?

17 THE WITNESS: Yes, it is the  
18 finished basement, correct.

19 Q Can you just describe the furnishing  
20 that you can see in this photograph?

21 A Sink, cabinet, and a lot of books.

22 Q This next photograph, do you  
23 recognize where this photo what is depicted  
24 this photograph?

A The finished basement.

1 FRED S. LEE 37

2 Q All right. Is it correct to say  
3 that that photograph is depicting a bathroom in  
4 the finished basement?

5 A I think so, yes.

6 Q Do you recognize what is being  
7 depicted in this photograph?

8                   A               In the basement the gas reading  
9                   area.

10 Q Could you describe whether this is  
11 at the part of the basement closest to 27th  
12 Street or closest to the rear of the premises?

13 A Close to 27th Street.

14 Q Okay.

15 MR. ENGLERT: That is it for  
16 exhibits.

17 Q I want to discuss your leasing of  
18 the premises. As you said, you purchased this  
19 property as an investment property; is that  
20 correct?

21 A Yes, correct.

22 Q Now since 2013, have you always  
23 leased the premises out?

24 A Yes.

25 | Q Okay. Now, specifically if you can

1 FRED S. LEE 38

2 recall back to 2017, do you recall how many  
3 tenants you had at the premises in 2017?

4 A Two.

5 Q Was that two individuals or like two  
6 families?

7           A           What do you mean? The tenant you  
8       are talking now?

9                   Q                 Correct. This is in 2017. If you  
10          don't recall that is perfectly acceptable.

11 MR. AGULNICK: Objection to the  
12 form. Are you asking who he leased it to, how  
13 many leases he had, or how many individual people  
14 were part of each lease?

15 MR. ENGLERT: How many groups  
16 essentially.

17 A The first floor it is a two person.  
18 The second floor one person.

19 MR. AGULNICK: Only two leases; is  
20 that correct?

21 THE WITNESS: Yes.

22 Q All right. In 2018, how many  
23 tenants did you have in 2018?

24 A The same.

25 Q Did the tenants change at all or

1 FRED S. LEE 39

2 were they the same from the previous year?

3 A The same tenants.

Now, in 2019, how many tenants?

5 A The same.

6 Q Okay. I believe your attorney posed  
7 this question. I want to confirm, because I  
8 don't think that I got the answer. In 2017, how  
9 many leases did you have for the premises?

10 A Two leases.

11 Q How many leases in 2018?

12 A I think the same.

13 Q How many leases in 2019?

14 A Two leases.

15 MR. ENGLERT: To the extent that we  
16 have not requested or don't have the leases, we  
17 will make a formal request in writing for copies  
18 of the leases if they exist.

19 MR. AGULNICK: I am pretty sure that  
20 we provided the leases. We will take a look.

21 MR. ENGLERT: I will double-check,  
22 as well.

23 MR. AGULNICK: There are only two  
24 three leases, so we are clear.

25 Q The leases that you issued at

1 FRED S. LEE 40

2       premises, did you recall what the term was of  
3       each lease?

4           A           One-year lease. When you see the  
5 original lease you can find out what you need. I  
6 don't want to misleads you.

7 Q I don't think that you are  
8 misleading, at all. How do your tenants pay rent  
9 to you?

10 A By check.

11 Q Okay. A couple of final questions.  
12 Your wife is also a party to this case and just  
13 want to essentially prevent bringing her in  
14 for a deposition. Did she ever negotiate  
15 insurance contracts for the premises?

16 A Not at all.

17 Q Would she have given any information  
18 to your insurance broker related to the premises?

19 A NO.

20 Q Would she have ever negotiated  
21 renovations or contracting at the premises?

22 A She is totally independent and out  
23 of the property. She does not know anything.

24 Q Okay?

25 MR. ENGLERT: I think I am done.

Page 41  
April 27, 2021

1 FRED S. LEE 41

2 Thank you very much.

3 EXAMINATION BY MR. AGULNICK:

4 Q I just have a few questions. I want  
5 to mark the Inspection Report. Give me a minute  
6 and I will pull it up. Mr. Lee, how are you,  
7 sir?

8 A Good.

9 Q I am showing you what has been  
10 marked Plaintiff's Exhibit 1. I will tell you  
11 that this is a report that was provided by Union  
12 Mutual in connection with the inspection of the  
13 premises on July 11th of 2017. I will show you  
14 the first photograph on the first page. It is  
15 Bates stamp on 00361. There is a very handsome  
16 man in the first photograph, do you see that man?

17 A It is me.

18 Q That handsome is you; is that  
19 correct?

20 A Yes, correct. Who took this  
21 picture?

22 Q That was purportedly taken by the  
23 inspector on July 11th of 2017. I am going to  
24 scroll down to page three of five. There appears  
25 to be a set of stairs, do you see those?

1 FRED S. LEE 42

2 | A Yes.

3 Q Are those interior stairs meaning  
4 inside the premises?

5 A Yes, correct.

6 Q I am going to scroll down to page  
7 four of five, do you recognize those two  
8 photographs?

9 A Yes, sir.

10 Q The top photographs appears to be  
11 electrical meters; is that correct?

12 A Correct.

13 Q Those electrical meters are located  
14 inside the basement of the premises?

15 A Correct.

16 Q The bottom photograph appears to be  
17 gas meters, do you see that?

18 A Yes, I can see that.

19 Q Are those the gas meters inside the  
20 basement of the premises?

21           A         Correct. All of them is inside the  
22 basements.

23 Q All right. I will go to the bottom  
24 photo, do you recognize what is in that photo?

25 A Yes.

Page 43  
April 27, 2021

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43

2 Q What is that?

3 A A boiler.

4 Q Okay.

5 A And a hot water tank.

6 Q Where is that located?

7 A In the basement.

8 Q In July of 2017, did you walk  
9 through the basement with the inspector?

10 A Yes.

11 MR. AGULNICK: Mr. Lee, thank you,  
12 sir. I have nothing further. Thank you for your  
13 time.

14 (Whereupon, the proceedings were  
15 concluded at 11:32 a.m.)

16

17

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18 FRED S. LEE

19

20 Subscribed and sworn to  
21 before me this \_\_\_\_ day  
22 of \_\_\_\_\_, 2021.

23

24 NOTARY PUBLIC

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Page 44  
April 27, 2021

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WITNESS

EXAMINATION BY

PAGE

FRED S. LEE

MR. ENGLERT

5

MR. AGULNICK

41

Page 45  
April 27, 2021

45

EXHIBIT INDEX

DEFENDANT'S

NO:	DESCRIPTION:	PAGE:
A & B	DOCUMENTS	20
C	DOCUMENT	24
D	DOCUMENT	29
E	DOCUMENT	29

Page 46  
April 27, 2021

1 46

2 CERTIFICATION

3

4

5 I, KAREN MCCONNELL, hereby certify

6 that the within was held before me on the 27th

7 day of April, 2021.

8 That the testimony was taken

9 stenographically by myself.

10 That the within transcript is a true

11 and accurate record.

12

13 That I am not connected by blood or

14 marriage with any of the parties. I am not

15 interested directly or indirectly in the matter in

16 controversy.

17

18 IN WITNESS WHEREOF, I have hereunto

19 set my hand this 24th day of May, 2021.

20

21

22

23

24   
-----  
25 KAREN MCCONNELL

April 27, 2021

Page 47

<b>A</b>	<b>AGULNICK...</b>	<b>application (...)</b>	45:5	<b>believe (2)</b>
<b>a.m (2)</b>	2:3,6 12:15 1:13 43:15	16:15,23 17:4 13:3 14:25	<b>back (10)</b>	23:2 39:6
<b>ability (1)</b>	15:13,17,24 6:25	21:5,12,22 18:13 21:9,16	20:24 25:10 27:6,19 28:3	<b>Beltrani (2)</b>
<b>able (1)</b>	21:25 22:5 16:17	22:10 23:5,11 23:16,23 25:8 25:14,21 27:9 28:9	33:18,19,24 35:25 38:2	<b>best (1)</b>
<b>above-entitle...</b>	31:6,11 33:10 1:16	<b>applied (2)</b>	<b>backyard (2)</b>	22:21 <b>better (1)</b>
<b>acceptable (2)</b>	33:25 34:8 36:15 38:11 5:20 38:10	13:20 14:2 38:19 39:19	33:3,20	19:6 <b>bigger (1)</b>
<b>accurate (1)</b>	39:23 41:3 46:11	<b>appreciate (1)</b>	<b>bankruptcy (1)</b>	16:5
<b>accurately (8)</b>	43:11 44:6 17:20 22:22 28:10 29:22 30:10,14 31:4 36:2	5:3 <b>April (3)</b>	7:11	<b>bit (2)</b>
<b>action (1)</b>	<b>allowed (1)</b>	1:13 35:15 46:7	<b>based (1)</b>	4:25 16:7 <b>blind (1)</b>
1:16	22:18	<b>area (1)</b>	13:7	34:11
<b>actual (1)</b>	<b>ANN (1)</b>	37:9	<b>basement (39)</b>	<b>blood (1)</b>
16:18	1:5	<b>arrived (1)</b>	9:20 10:19,20	46:13
<b>addition (1)</b>	<b>answer (16)</b>	11:18	10:20,24 18:8	<b>boiler (2)</b>
4:24	4:21 5:10,16 5:20,25 17:16	<b>aside (1)</b>	18:11 19:25	33:4 43:3
<b>additional (2)</b>	17:17 18:15 21:18 22:8	36:5	30:25 31:5,10	<b>books (1)</b>
24:11,15	22:18 23:22 28:10 31:12	<b>asked (3)</b>	31:16 32:17	36:21
<b>address (4)</b>	39:8	14:10 33:11	32:21 33:2,6	<b>bottom (3)</b>
4:9 6:19 22:11 22:13	<b>answering (1)</b>	34:2	33:8,12,16,22	26:22 42:16,23
<b>ADMINIST...</b>	5:3	<b>asking (5)</b>	<b>Boulevard (1)</b>	2:4
3:14	34:6	8:11 14:15	34:10,12,15	<b>break (6)</b>
<b>affect (2)</b>	<b>apartment (16)</b>	23:19 30:13	34:21,21	5:7,11,14,17
3:15 26:8	6:9 9:23 10:11 10:12,17	38:12	36:12,16,18	28:6 34:3
<b>against- (1)</b>	17:15,19,21 18:3 19:20,23	<b>aspects (1)</b>	36:25 37:4,8	<b>briefly (1)</b>
1:7	22:22 28:7,11 34:18,23	9:17	37:11 42:14	8:2
<b>agency (2)</b>	<b>apartments (2)</b>	<b>attached (1)</b>	42:20 43:7,9	<b>bring (1)</b>
12:7,9	9:3 22:19	23:16	<b>basements (1)</b>	14:23
<b>agent (11)</b>	<b>APPEARAN...</b>	<b>attorney (4)</b>	42:22	<b>bringing (1)</b>
12:2,4 13:22 14:4,8,11 17:3 24:13 26:11 29:5,7	2:2	5:12 8:8 16:13 39:6	40:13	<b>Broad (1)</b>
<b>agree (3)</b>	<b>appears (5)</b>	<b>Attorneys (2)</b>	2:9	<b>broker (14)</b>
6:8 26:6,9	27:24 31:24	2:4,9	13:22 14:4,11	14:14,16,16
<b>AGREED (3)</b>	41:24 42:10 42:16	<b>AUTHORIZ...</b>	14:18 17:3	14:18 17:3
3:3,8,12	<b>applicant (3)</b>	3:14	24:3,5,7,10	24:3,5,7,10
	26:25 27:16,25	<b>authorizing (1)</b>	24:15 40:18	24:15 40:18
		26:11	<b>bedrooms (2)</b>	<b>building (2)</b>
		11:16	9:24 10:14	9:19 34:5
			<b>bath (1)</b>	
			11:2	
			<b>bathroom (4)</b>	
			10:2,15,24	
			37:3	
			<b>bathrooms (2)</b>	
			9:24 10:14	
			<b>bedrooms (2)</b>	
			10:12,13	
			<b>behalf (2)</b>	
			4:13 17:5	
				<b>C</b>
				<b>C (4)</b>

April 27, 2021

Page 48

24:21 28:3,18 45:6 <b>cabinet (4)</b> 32:6,11,12 36:21 <b>cabinetry (1)</b> 31:21 <b>call (2)</b> 23:19 32:10 <b>called (4)</b> 11:23 12:2,4 13:4 <b>case (2)</b> 5:24 40:12 <b>caught (1)</b> 5:4 <b>certain (2)</b> 9:17 24:24 <b>certification ...</b> 23:11 46:2 <b>certify (2)</b> 25:20 46:5 <b>chance (2)</b> 16:19 30:5 <b>change (3)</b> 11:10 18:14 38:25 <b>changes (4)</b> 11:7,7,8 36:5 <b>Charles (2)</b> 2:11 4:13 <b>check (1)</b> 40:10 <b>City (2)</b> 4:18 6:10 <b>claim (5)</b> 4:16 11:13,25 28:21,25 <b>clear (2)</b> 5:23 39:24 <b>Close (1)</b> 37:13 <b>closest (2)</b> 37:11,12 <b>closing (1)</b> 9:14	<b>come (2)</b> 14:12 29:9 <b>coming (1)</b> 11:22 <b>commenced (...</b> 4:15 <b>commercial (5)</b> 21:13,22 22:10 23:12 25:8 <b>common (2)</b> 34:18 35:4 <b>communicat...</b> 29:7 <b>company (8)</b> 1:8 4:14 12:10 13:7,12 14:24 23:4 26:18 <b>completely (1)</b> 16:20 <b>comprised (1)</b> 14:9 <b>concerns (1)</b> 4:16 <b>concluded (1)</b> 43:15 <b>conclusion (1)</b> 23:20 <b>CONDUCT...</b> 4:5 <b>confined (1)</b> 15:21 <b>confirm (1)</b> 39:7 <b>Congratulati...</b> 7:5 <b>connected (1)</b> 46:13 <b>connecting (1)</b> 31:14 <b>connection (1)</b> 41:12 <b>Consultants ...</b> 29:14,15 <b>contact (2)</b> 24:5 29:2 <b>contacted (1)</b>	29:4 <b>contracting (1)</b> 40:21 <b>contracts (1)</b> 40:15 <b>controversy (...</b> 46:16 <b>convicted (1)</b> 7:13 <b>copies (1)</b> 39:17 <b>copy (3)</b> 16:13,14 21:3 <b>correct (27)</b> 13:3,10 14:17 22:14,20,24 23:17 24:6,9 31:18,22 33:18 34:25 35:10 36:18 37:2,20,21 38:9,20 41:19 41:20 42:5,11 42:12,15,21 <b>Counsel (2)</b> 1:20 3:4 <b>couple (5)</b> 4:19 7:8 8:12 23:25 40:11 <b>court (6)</b> 1:2,19 3:16 4:22 6:20 7:19 <b>coverage (1)</b> 24:8 <b>coverages (1)</b> 16:18 <b>crime (1)</b> 7:14 <b>current (2)</b> 7:3 24:8 <b>curse (1)</b> 17:13 <b>cursor (7)</b> 17:11 22:11,17 25:25 26:5	32:7,9 <hr/> <b>D</b> <b>D (4)</b> 4:2 29:13 44:2 45:7 <b>damage (2)</b> 4:17 11:25 <b>date (7)</b> 18:4,12 25:16 27:9,12 28:9 30:23 <b>day (3)</b> 43:21 46:7,19 <b>deaf (1)</b> 34:11 <b>deed (3)</b> 8:4,6,7 <b>Defendant (2)</b> 1:9 2:9 <b>Defendant's ...</b> 20:14,15 24:21 28:18 29:13 35:9 45:3 <b>denial (1)</b> 26:18 <b>depict (1)</b> 36:2 <b>depicted (2)</b> 36:23 37:7 <b>depicting (1)</b> 37:3 <b>deposition (8)</b> 1:15 3:13 5:8 7:16,24 8:9 25:5 40:14 <b>describe (4)</b> 9:17 32:3 36:19 37:10 <b>described (1)</b> 9:11 <b>describing (1)</b> 9:7 <b>description (4)</b> 30:25 36:11,13 45:4	<b>detail (1)</b> 32:18 <b>different (2)</b> 20:12 34:2 <b>digits (1)</b> 27:4 <b>directly (4)</b> 32:21 33:2 35:5 46:15 <b>directory (1)</b> 13:5 <b>discuss (3)</b> 25:7 29:25 37:17 <b>discussing (1)</b> 24:14 <b>dispute (4)</b> 21:14,21 22:6 31:9 <b>DISTRICT (2)</b> 1:2,3 <b>Docket (1)</b> 1:7 <b>document (20)</b> 14:23 15:9,12 15:14 16:17 17:8,24 20:25 21:2,7 22:9 22:12,16 23:8 24:25 29:15 35:18 45:6,7 45:8 <b>documents (5)</b> 7:22 26:7,9,12 45:5 <b>doing (1)</b> 34:12 <b>door (5)</b> 11:20 32:25 33:19 34:20 34:22 <b>double-check...</b> 39:21 <b>drugs (1)</b> 6:24 <b>duly (1)</b>
--	--	---	--	---

April 27, 2021

Page 49

4:2	2:6,11	FILE (1)	19:22 34:23	38:1 39:1
<b>dumb (1)</b>	<b>essentially (2)</b>	2:12	38:17,18	40:1 41:1
34:11	38:16 40:13	<b>filed (1)</b>	<b>floors (1)</b>	42:1 43:18
<hr/>	<b>E</b>	7:10	14:9	44:5
<b>E (7)</b>	<b>estimate (1)</b>	<b>FILING (1)</b>	<b>Flushing (1)</b>	<b>free (1)</b>
4:2,2,2 35:9,9	5:19	3:5	4:10	5:8
44:2 45:8	<b>everybody (2)</b>	<b>fill (2)</b>	<b>focus (2)</b>	<b>front (8)</b>
<b>EASTERN (1)</b>	5:4 7:9	16:23 17:3	17:7 30:18	32:23 33:23
1:3	<b>EXAMINAT...</b>	<b>final (2)</b>	<b>Focusing (1)</b>	34:4,5,16,17
<b>either (1)</b>	4:5 41:3 44:4	35:8 40:11	36:8	35:3,14
7:22	<b>examined (1)</b>	<b>find (1)</b>	<b>follow (1)</b>	<b>full (6)</b>
<b>electric (3)</b>	4:4	40:5	19:11	6:17 11:2
33:5,9,21	<b>exhibit (15)</b>	<b>fine (2)</b>	<b>follows (1)</b>	15:14 16:13
<b>electrical (2)</b>	14:21 20:11	2:8 18:12	4:4	16:14,17
42:11,13	24:19,20,21	<b>finished (8)</b>	<b>FORCE (1)</b>	<b>furnishing (1)</b>
<b>electronic (8)</b>	27:7,19 28:3	9:20 10:20	3:15	36:19
26:7,19,23,24	28:5,18 29:13	33:6,15 34:21	<b>form (12)</b>	<b>further (3)</b>
27:4,8,15,25	35:8,9 41:10	36:18,25 37:4	3:9 7:23 12:16	3:8,12 43:12
<b>electronicall...</b>	45:2	<b>fire (14)</b>	18:14 21:17	<hr/>
7:23	<b>exhibits (2)</b>	1:8 4:14,16	26:15 31:7,12	<b>G</b>
<b>Englert (20)</b>	35:9 37:16	11:12,13,17	33:11 34:2	<b>gas (7)</b>
2:11 4:5,13	<b>exist (1)</b>	11:25 14:24	36:16 38:12	33:5,21 34:3,9
12:19 14:22	<b>exit (1)</b>	21:4 26:17	<b>formal (1)</b>	37:8 42:17,19
15:16,20	32:20	28:15 29:10	39:17	<b>generally (1)</b>
20:13 24:20	<b>expiration (1)</b>	35:12 36:6	<b>found (1)</b>	22:6
25:3 28:17	24:5	<b>first (28)</b>	13:5	<b>getting (2)</b>
29:24 30:4	<b>expire (1)</b>	4:2 10:6,9,10	<b>four (3)</b>	15:7 33:9
34:13 37:15	24:4	10:11 11:20	17:8,9 42:7	<b>give (3)</b>
38:15 39:15	<b>explain (2)</b>	11:25 13:13	<b>Fred (48)</b>	13:21 14:3
39:21 40:25	8:2 28:22	13:14,17	1:5,15 4:1,8	41:5
44:5	<b>Express (1)</b>	15:19,21,22	5:1 6:1,18 7:1	<b>given (3)</b>
<b>enlargement ...</b>	26:13	18:5 19:19	8:1 9:1 10:1	6:5 7:16 40:17
32:13	<b>extent (2)</b>	20:25 25:9,18	11:1 12:1	<b>go (18)</b>
<b>enter (3)</b>	23:19 39:15	29:21 30:18	13:1 14:1	4:19 11:21
32:16 35:2,3	<hr/>	34:22 35:16	15:1 16:1	12:13,21
<b>entire (1)</b>	<b>F (1)</b>	35:25 36:8	17:1 18:1	15:22 19:19
34:10	4:2	38:17 41:14	19:1 20:1	19:22,25
<b>entirety (1)</b>	<b>fair (1)</b>	41:14,16	21:1 22:1	22:15 24:18
34:11	13:6	<b>first-story (1)</b>	23:1 24:1	24:22 25:9
<b>entrance (10)</b>	<b>families (1)</b>	10:17	25:1 26:1	27:6 33:4,4
32:20,23,24	38:6	<b>five (2)</b>	27:1,2,18	34:18 35:5
33:12,13,17	<b>family (1)</b>	41:24 42:7	28:1,2 29:1	42:23
33:19 34:14	14:10	<b>floor (13)</b>	30:1 31:1	<b>goes (1)</b>
34:15,17	<b>FEDERAL (1)</b>	10:9,10,11	32:1 33:1	33:2
<b>ESQUIRE (2)</b>	3:2	11:20,21 18:2	34:1 35:1	<b>going (26)</b>
		18:3,5 19:20	36:1 37:1	9:16 15:20

April 27, 2021

Page 50

16:12 17:8 20:18,19,24 22:15 24:18 24:22 25:3,7 27:7,19 28:3 28:4,15,19,20 29:12,18 34:20 35:8,24 41:23 42:6 <b>Good</b> (2) 4:12 41:8 <b>Great</b> (4) 2:5 6:7 7:8 29:18 <b>GREENBLA...</b> 2:3 <b>ground</b> (1) 4:19 <b>groups</b> (1) 38:15 <b>guess</b> (3) 5:18 19:14 21:9	<b>Hill</b> (1) 26:13 <b>Hollow</b> (1) 2:9 <b>hood</b> (1) 31:25 <b>hot</b> (1) 43:5 <b>hours</b> (1) 6:24 <b>house</b> (1) 9:12 <b>HURWITZ</b> (1) 2:8	24:11,16 25:21 40:17 <b>initial</b> (1) 16:15 <b>inside</b> (5) 30:15 42:4,14 42:19,21 <b>inspect</b> (3) 14:12 18:19 29:9 <b>inspected</b> (3) 19:12,16 35:11 <b>inspection</b> (7) 9:13 18:22 20:4 29:20 35:15 41:5,12 <b>identification...</b> 30:21 <b>identified</b> (1) 16:16 <b>Ignoring</b> (1) 36:13 <b>immediately ...</b> 11:23 <b>impact</b> (1) 6:25 <b>inconsequent...</b> 25:4 <b>independent ...</b> 40:22 <b>independently...</b> 16:24 <b>INDEX</b> (1) 45:2 <b>indirectly</b> (1) 46:15 <b>individual</b> (3) 32:16 33:7 38:13 <b>individuals</b> (1)	40:23 <b>knowledge</b> (1) 22:21 <b>knows</b> (1) 22:8	
				<b>L</b>
				<b>L</b> (1) 4:2 <b>lack</b> (1) 19:6 <b>lag</b> (1) 5:2
				<b>large</b> (1) 10:22 <b>lawsuit</b> (2) 4:15,16 <b>layout</b> (5) 11:8 17:25 18:5,8,11
				<b>lease</b> (4) 38:14 40:3,4,5 <b>leased</b> (2) 37:23 38:12 <b>leases</b> (12) 38:13,19 39:9 39:10,11,13 39:14,16,18 39:20,24,25
				<b>Karen</b> (3) 1:17 46:5,25 <b>Kim</b> (4) 12:5,6 13:4,6 <b>Kim's</b> (1) 13:12 <b>kitchen</b> (4) 10:3,16 31:2 36:12 <b>knocked</b> (1) 11:19 <b>know</b> (21) 5:12,24,25 <b>interested</b> (1) 26:13 46:15 <b>interior</b> (2) 30:11 42:3 <b>information</b> ... 13:22 14:4 17:2 23:15
				1:5,5,15 4:1,8 4:12 5:1 6:1 6:18 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1,2 15:25 16:1 17:1 18:1 19:1 20:1 21:1 22:1,9 23:1 24:1 25:1 26:1 27:1,2,18 28:1,2 29:1

April 27, 2021

Page 51

29:14,19 30:1	11:12 35:12	<b>meters (4)</b>	36:11 40:5	34:11
31:1 32:1	<b>lot (1)</b>	42:11,13,17,19	<b>negotiate (1)</b>	<b>occupation (1)</b>
33:1 34:1	36:21	<b>Mil (2)</b>	40:14	7:3
35:1,10 36:1	<b>loud (2)</b>	12:5 13:4	<b>negotiated (1)</b>	<b>occurred (1)</b>
36:16 37:1	15:3 17:14	<b>mind (1)</b>	40:20	4:17
38:1 39:1	<hr/> <b>M</b> <hr/>	30:3	<b>never (1)</b>	<b>off-the-recor...</b>
40:1 41:1,6	<b>mail (1)</b>	<b>mine (1)</b>	29:4	5:15
42:1 43:11,18	11:19	6:22	<b>New (8)</b>	<b>offense (1)</b>
44:5	<b>making (2)</b>	<b>minute (1)</b>	1:3,18 2:5,10	7:10
<b>legal (1)</b>	11:24 26:10	41:5	4:3,10,18	<b>office (1)</b>
23:20	<b>man (2)</b>	<b>misleading (1)</b>	6:10	5:13
<b>legible (1)</b>	41:16,16	40:8	<b>nice (1)</b>	<b>OFFICER (1)</b>
15:6	<b>March (11)</b>	<b>misleads (1)</b>	5:23	3:14
<b>let's (1)</b>	4:17 11:14,17	40:6	<b>ninety-eight-....</b>	<b>okay (38)</b>
35:16	28:15 29:10	<b>morning (1)</b>	15:18	5:20 6:2,3,16
<b>liability (1)</b>	30:11,15,23	4:12	<b>nods (1)</b>	9:10 11:11
26:20	31:10,16 36:4	<b>move (5)</b>	4:21	13:20 14:11
<b>Liberty (1)</b>	<b>mark (2)</b>	6:2 8:11 17:12	<b>Northern (1)</b>	15:23 16:22
12:18	35:8 41:5	26:2 28:14	2:4	17:7,10 19:19
<b>limit (1)</b>	<b>marked (6)</b>	<b>moving (1)</b>	<b>Notary (3)</b>	20:17,21
26:20	20:14 27:7	17:24	1:17 4:3 43:24	21:11 22:4,25
<b>listing (1)</b>	28:18 29:13	<b>Mutual (20)</b>	<b>Note (2)</b>	25:2,11 27:21
9:6	30:20 41:10	1:8 4:14 12:18	12:15 23:18	27:23 30:7,8
<b>little (2)</b>	<b>marriage (1)</b>	12:25 14:24	<b>notes (1)</b>	31:13 32:16
4:25 16:7	46:14	16:16 18:19	20:3	33:21 34:6,25
<b>LLC (1)</b>	<b>matter (1)</b>	19:11 21:3,6	<b>notify (1)</b>	35:7,14,23
26:13	46:15	21:13,23	11:25	37:14,25 39:6
<b>located (6)</b>	<b>McConnell (3)</b>	26:17 28:21	<b>number (5)</b>	40:11,24 43:4
6:9 33:23,23	1:17 46:5,25	28:25 29:3,4	1:7 2:12 17:20	<b>once (2)</b>
34:4 42:13	<b>mean (9)</b>	29:9 35:11	22:22 28:11	16:2 30:5
43:6	7:9 11:7 13:14	41:12	<b>numbers (1)</b>	<b>one-page (1)</b>
<b>location (1)</b>	14:14 28:23	<hr/> <b>N</b> <hr/>	27:3	9:7
22:11	32:12,23,25	<b>N (1)</b>	<hr/> <b>O</b> <hr/>	<b>One-year (1)</b>
<b>long (4)</b>	38:7	44:2	<b>OATH (1)</b>	40:4
4:18 6:10 7:5	<b>meaning (1)</b>	<b>name (12)</b>	3:15	<b>open (3)</b>
13:11	42:3	4:6,12 6:17	<b>objection (13)</b>	5:16 11:22,22
<b>look (4)</b>	<b>medications ...</b>	8:22,24 12:3	12:15 18:13	<b>order (3)</b>
15:25 27:7	6:23	12:9 26:17,24	21:16,18,25	1:19 17:3
30:5 39:20	<b>Melville (1)</b>	26:25 27:16	23:18,21 31:6	33:14
<b>looked (2)</b>	2:10	27:24	31:11 33:10	<b>original (1)</b>
30:15 31:16	<b>memory (1)</b>	<b>Neck (1)</b>	33:25 36:15	40:5
<b>looking (1)</b>	23:24	2:5	38:11	<b>originally (1)</b>
30:9	<b>meter (7)</b>	<b>need (9)</b>	<b>OBJECTIO...</b>	12:17
<b>looks (1)</b>	33:5,5,9,14,21	5:7,12,13,15	3:9	<b>outdoors (2)</b>
20:11	34:4,9	16:3,9 27:19	<b>observe (1)</b>	32:22 33:17
<b>loss (2)</b>				<b>outside (1)</b>

April 27, 2021

Page 52

35:2	38:13	4:6,20 10:8	<b>premiums (1)</b>	13:16 37:18
<b>oven (2)</b>	<b>perfectly (4)</b>	13:25 16:4,7	<b>purchasing (3)</b>	9:2,8,10
32:4,5	5:20 6:2 34:7	17:12 19:9	<b>purportedly ...</b>	41:22
	38:10	21:8,19 26:2	<b>purpose (2)</b>	8:17 9:4
<b>P</b>	<b>person (2)</b>	27:21 32:18	<b>pursuant (1)</b>	1:18
<b>P.C (2)</b>	38:17,18	32:19	<b>put (2)</b>	28:16 35:7
2:3,8	<b>photo (9)</b>	<b>policy (14)</b>		
<b>package (1)</b>	30:19,19,20,20	12:17,20 13:8	<b>Q</b>	
21:13	30:21 36:9,23	13:21 16:16	<b>qualified (1)</b>	
<b>page (34)</b>	42:24,24	21:13,24 23:5	<b>question (19)</b>	
15:4,19 16:2,3	<b>photograph (...)</b>	24:3 25:14	3:9 5:3,10,11	
17:7,9 20:24	29:21 30:6	26:14,16,19	5:17 10:9	
20:25 22:15	31:9,19 32:4	27:9	15:20 17:13	
23:2,2,3,4,6,7	35:16,22,24	<b>portion (2)</b>	17:14 18:16	
23:10,11,15	35:25 36:8,20	31:15 33:8	19:3 21:20	
25:4,6,10,13	36:22,24 37:3	<b>portions (1)</b>	22:17,18	
25:15 26:23	37:7 41:14,16	19:15	24:12 28:5	
27:8,10,13	42:16	<b>posed (1)</b>	32:19 34:6	
28:4,6 41:14	<b>photographs ...</b>	39:6	39:7	
41:24 42:6	14:18 20:4	<b>premises (68)</b>	<b>questions (11)</b>	
44:4 45:4	28:16 29:20	6:8 8:12,13,15	4:20,21 7:9	
<b>pages (4)</b>	29:25 30:10	8:20 9:2,11	8:12 16:18,21	
15:21,22 20:19	30:14 35:15	9:14,18 10:7	20:20 23:25	
24:24	35:17 42:8,10	11:6,7,14	35:19 40:11	
<b>paper (1)</b>	<b>photos (2)</b>	12:13,14,21	41:4	
7:23	20:8 30:9	13:9,23 14:3	<b>quote (1)</b>	
<b>paragraph (1)</b>	<b>physical (1)</b>	14:5,8,12,18	15:19	
26:5	20:3	17:4,21 18:2		
<b>part (3)</b>	<b>physically (1)</b>	18:5,8,19	<b>R</b>	
31:5 37:11	14:12	19:4,8,11,13	<b>R (1)</b>	
38:14	<b>pick (1)</b>	19:16 21:14	4:2	
<b>parties (2)</b>	11:18	22:13,23 24:4	<b>read (16)</b>	
3:4 46:14	<b>picture (4)</b>	24:11 25:9	15:2,22 17:14	
<b>partition (1)</b>	18:24 19:18	28:12 29:9,22	20:20 22:17	
10:23	30:12 41:21	30:11,15	22:18 23:3,7	
<b>party (1)</b>	<b>pictures (3)</b>	32:17,21	25:12,18,22	
40:12	18:9 20:6,7	33:18,22 35:2	26:4,23 27:8	
<b>pay (1)</b>	<b>place (1)</b>	35:3,11 36:2	27:24 28:5	
40:8	1:17	36:5,9 37:12	<b>reading (2)</b>	
<b>payment (1)</b>	<b>Plaintiff (1)</b>	37:18,23 38:3	33:14 37:8	
26:10	2:4	39:9 40:2,15	<b>rear (5)</b>	
<b>PDF (1)</b>	<b>Plaintiff's (1)</b>	40:18,21		
15:18	41:10	41:13 42:4,14		
<b>pending (2)</b>	<b>Plaintiffs (1)</b>	42:20		
5:10,17	1:6	<b>premium (1)</b>		
<b>people (1)</b>	<b>please (14)</b>	26:10		

April 27, 2021

Page 53

32:24 33:3,13 34:14 37:12 <b>reason (4)</b> 21:14,21 22:6 31:9 <b>reasonably (1)</b> 5:19 <b>recall (20)</b> 8:22,24,25 9:9 13:19,21 14:3 14:7 16:25 17:6 18:10,11 19:15 21:7,10 21:17 38:2,2 38:10 40:2 <b>received (1)</b> 26:21 <b>recognize (6)</b> 21:2 27:3 36:23 37:6 42:7,24 <b>record (4)</b> 4:7 5:23 22:5 46:11 <b>reference (1)</b> 4:14 <b>referring (2)</b> 6:8 15:14 <b>regard (1)</b> 11:24 <b>related (1)</b> 40:18 <b>relation (1)</b> 21:23 <b>relationship ...</b> 24:2 <b>relator (1)</b> 8:19 <b>relator's (3)</b> 8:22,24 9:7 <b>remainder (1)</b> 5:24 <b>remediation ...</b> 36:6 <b>remember (6)</b> 5:21 13:18	17:6 19:21,24 22:3 <b>render (1)</b> 26:19 <b>renew (1)</b> 24:8 <b>renewal (9)</b> 21:12,22 23:5 23:11,23 24:14 25:8,14 27:9 <b>renovations (1)</b> 40:21 <b>rent (1)</b> 40:8 <b>repeat (2)</b> 19:9 21:19 <b>rephrase (4)</b> 6:14 12:19 28:24 31:8 <b>report (2)</b> 41:5,11 <b>reporter (2)</b> 4:23 6:20 <b>represent (9)</b> 16:14 17:20 25:7 28:11 29:19,22 30:10,14 31:4 <b>representatio...</b> 22:7 <b>representativ...</b> 18:18 29:2,8 35:10 <b>represented (...)</b> 21:11 22:22 <b>request (3)</b> 5:9 13:8 39:17 <b>requested (1)</b> 39:16 <b>requesting (2)</b> 5:11,17 <b>RESERVED ...</b> 3:10 <b>residence (1)</b> 6:21	<b>RESPECTI...</b> 3:4 <b>response (1)</b> 17:19 <b>retired (2)</b> 7:4,6 <b>retirement (1)</b> 9:4 <b>return (1)</b> 26:21 <b>review (6)</b> 7:22 8:5 9:3,6 16:20 24:24 <b>reviewed (2)</b> 8:3,4 <b>right (21)</b> 12:23 15:2 17:13 18:25 20:7,10 22:12 26:4,22 27:15 28:3,14 29:21 30:12,13,20 34:22,24 37:2 38:22 42:23 <b>risk (1)</b> 22:11 <b>Road (1)</b> 2:9 <b>room (1)</b> 33:4 <b>rooms (1)</b> 10:21 <b>Round (1)</b> 26:13 <b>rules (1)</b> 4:20 <hr/> <b>S</b> <b>S (45)</b> 1:15 4:1,2,8 5:1 6:1,18 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1	19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:18 44:5 <b>saw (1)</b> 34:9 <b>says (3)</b> 15:19 21:17 36:12 <b>SCOTT (1)</b> 2:6 <b>screen (2)</b> 14:23 20:20 <b>scroll (16)</b> 15:13 16:3,10 17:8 20:19,22 22:25 24:23 28:4 29:18,24 30:6 35:17,22 41:24 42:6 <b>scrolling (1)</b> 23:8 <b>SEALING (1)</b> 3:5 <b>second (14)</b> 5:2 9:21,22,24 10:3 11:21 18:2,3 19:22 20:11 22:16 28:5 35:11 38:18 <b>security (1)</b> 27:4 <b>see (20)</b> 15:3,5,14 17:11 18:9 25:24 26:3,3	29:14,17,21 30:20,22 32:7 36:20 40:4 41:16,25 42:17,18 <b>seeing (1)</b> 21:7 <b>seen (1)</b> 15:9 <b>selected (1)</b> 13:7 <b>selecting (2)</b> 12:13,21 <b>sent (2)</b> 21:4,6 <b>sentence (1)</b> 25:19 <b>separate (1)</b> 10:21 <b>set (2)</b> 41:25 46:19 <b>shadow (2)</b> 19:7,12 <b>shaking (1)</b> 4:22 <b>share (2)</b> 14:22 29:12 <b>sharing (1)</b> 28:19 <b>sheet (1)</b> 9:7 <b>show (1)</b> 41:13 <b>showed (1)</b> 23:2 <b>shower (1)</b> 11:4 <b>showing (2)</b> 15:18 41:9 <b>side (2)</b> 34:24 35:3 <b>signature (11)</b> 23:6 25:15 26:7,19,23,24 27:4,8,10,16 27:25
--	---	--	---	--

April 27, 2021

Page 54

<b>signed (4)</b> 3:13,15 23:15 23:24	<b>statements (1)</b> 26:15	<b>talk (3)</b> 12:12 19:2	<b>41:24</b>	39:14,23 42:7
<b>signing (3)</b> 26:6,8,12	<b>STATES (1)</b> 1:2	<b>time (13)</b> 1:16 3:10 5:7	<b>two-bedroo...</b> 9:22	
<b>similar (1)</b> 20:12	<b>stenographic... (1)</b> 46:9	<b>talking (4)</b> 12:16,23,25	<b>two-family (1)</b> 9:12	
<b>sink (2)</b> 31:19 36:21	<b>STIPULATE... (1)</b> 3:3,8,12	<b>38:8</b>	<b>two-story (1)</b> 9:19	
<b>sir (14)</b> 7:12 8:10 9:15 10:5,18 11:9 11:15 14:13 14:19 19:5 24:17 41:7 42:9 43:12	<b>stipulations (2)</b> 1:19 3:2	<b>tank (1)</b> 43:5	<b>U</b>	
<b>six (3)</b> 15:22 23:3 25:10	<b>stop (2)</b> 16:12 28:19	<b>telephone (1)</b> 13:4	<b>underneath (1)</b> 23:4	
<b>sixty-three (1)</b> 15:21	<b>stories (1)</b> 9:17	<b>tell (5)</b> 5:25 10:8 14:7	<b>understand (...)</b> 5:5 6:4,13	
<b>skip (1)</b> 25:3	<b>story (5)</b> 9:21,22,25	<b>24:23 41:10</b>	<b>today (3)</b> 13:24 18:15	
<b>smell (2)</b> 11:19,21	<b>stove (1)</b> 10:4,6	<b>ten (1)</b> 7:7	<b>23:10,14</b>	
<b>somebody (2)</b> 30:12 34:9	<b>Street (6)</b> 4:10,18 6:10	<b>tenant (1)</b> 38:7	<b>25:22 26:9,15</b>	
<b>sorry (3)</b> 13:19 14:15 27:12	<b>submitted (2)</b> 21:23 26:12	<b>tenants (6)</b> 38:3,23,25	<b>understands ...</b> 23:22	
<b>space (1)</b> 10:22	<b>Subscribed (1)</b> 43:20	<b>39:3,4 40:8</b>	<b>Union (19)</b> 1:8 4:13 12:25	
<b>speak (4)</b> 5:12,13,14 8:9	<b>subsequent (1)</b> 26:18	<b>term (2)</b> 19:6 40:2	<b>14:24 16:15</b>	
<b>speaking (1)</b> 11:11	<b>Suite (1)</b> 2:4	<b>testified (3)</b> 4:4 7:19 18:14	<b>18:18 19:10</b>	
<b>specific (3)</b> 30:19,19 35:18	<b>sure (5)</b> 5:4,6 6:6 16:19	<b>testify (1)</b> 6:25	<b>21:3,6,12,23</b>	
<b>specifically (2)</b> 22:16 37:25	<b>sworn (4)</b> 3:13,16 4:2	<b>testimony (2)</b> 4:24 46:8	<b>26:17 28:21</b>	
<b>stairs (2)</b> 41:25 42:3	<b>T</b>	<b>text (2)</b> 26:24 27:4	<b>28:25 29:3,4</b>	
<b>stamp (1)</b> 41:15	<b>take (4)</b> 15:25 20:4,7	<b>thank (7)</b> 5:6 16:7 20:23	<b>29:8 35:11</b>	
<b>state (4)</b> 1:18 4:3,6 6:17	<b>39:20</b>	<b>25:24 41:2</b>	<b>41:11</b>	
	<b>taken (6)</b> 1:17 6:23	<b>43:11,12</b>	<b>unit (1)</b> 22:19	
	<b>36:10,14</b>	<b>thing (6)</b> 6:7 20:18 21:4	<b>UNITED (1)</b> 1:2	
	<b>41:22 46:8</b>	<b>24:19,23</b>	<b>units (6)</b> 17:15,20,21	
		<b>28:13</b>	<b>22:23 28:7,11</b>	
		<b>think (12)</b> 7:2 18:20,23	<b>unsure (1)</b> 5:21	
		<b>20:6 23:23,24</b>	<b>use (1)</b> 8:19	
		<b>29:11 37:5</b>	<b>V</b>	
		<b>39:8,12 40:7</b>	<b>validity (1)</b> 26:8	
		<b>40:25</b>	<b>vent (2)</b> 31:24 32:2	
		<b>three (3)</b> 34:2 39:24	<b>verbal (1)</b> 4:23	

April 27, 2021

Page 55

<b>verbally</b> (1) 4:21	<b>work</b> (1) 12:6	<b>11358</b> (1) 4:11	<b>2019</b> (5) 25:17 28:10,12	<b>3</b> (1) 3:1
<b>video</b> (1) 1:19	<b>working</b> (1) 13:11	<b>11747</b> (1) 2:10	<b>39:4,13</b> <b>2020</b> (12)	<b>30</b> (1) 30:1
<b>virtual</b> (1) 4:25	<b>writing</b> (1) 39:17	<b>11th</b> (2) 41:13,23	<b>4:17 11:14,17</b> 28:15 29:10	<b>302</b> (1) 2:4
<b>void</b> (1) 26:20		<b>12</b> (1) 12:1	<b>30:11,16,23</b> 31:10,16	<b>31</b> (1) 31:1
	<b>X</b>	<b>X</b> (3) 1:4,10 44:2		<b>314PK49300...</b>
<b>wait</b> (1) 5:2		<b>13</b> (1) 13:1	<b>2021</b> (4) 1:13 43:22	<b>16:16</b> <b>32</b> (1)
	<b>Y</b>	<b>14</b> (1) 14:1		<b>46:7,19</b> 32:1
<b>WAIVED</b> (1) 3:6	<b>year</b> (2) 13:18 39:2	<b>15</b> (1) 15:1	<b>20th</b> (3) 25:17 28:10,12	<b>33</b> (1) 33:1
<b>walk</b> (5) 9:13 33:7,15 34:9 43:8	<b>years</b> (1) 7:7	<b>15405-021</b> (1) 30:21	<b>21</b> (1) 21:1	<b>34</b> (1) 34:1
<b>walked</b> (2) 19:7,17	<b>York</b> (8) 1:3,18 2:5,10 4:3,11,18	<b>15th</b> (1) 35:16	<b>21st</b> (2) 22:23 27:14	<b>35</b> (1) 35:1
<b>walks</b> (1) 33:11	6:10	<b>16</b> (1) 16:1	<b>22</b> (1) 22:1	<b>36</b> (1) 36:1
	<b>Z</b>	<b>17</b> (1) 17:1	<b>23</b> (1) 23:1	<b>37</b> (1) 37:1
<b>wall</b> (1) 31:13	<b>zoom</b> (4) 1:11 16:3 20:16 27:20	<b>18</b> (1) 18:1	<b>24</b> (3) 6:24 24:1 45:6	<b>37-11</b> (1) 22:12
<b>want</b> (18) 4:19 8:11 11:11 12:12 18:10 20:16 22:25 25:9 27:6 28:14 34:8 35:7,21 37:17 39:7 40:6,13 41:4		<b>19</b> (1) 19:1	<b>24th</b> (1) 46:19	<b>38</b> (1) 38:1
	<b>0</b>	<b>00361</b> (1) 41:15	<b>25</b> (1) 4:10	<b>39</b> (1) 39:1
		<b>1</b>	<b>2</b>	<b>26</b> (1) 26:1
				<b>39-11</b> (2) 4:18 6:9
		<b>2</b> (2) 2:1 22:15	<b>27</b> (2) 1:13 27:1	<b>4</b>
<b>wanted</b> (1) 24:8	<b>1:20-cv-0319...</b>	<b>20</b> (2) 20:1 45:5	<b>27th</b> (10) 4:18 6:9 17:21	<b>4</b> (1) 4:1
<b>water</b> (1) 43:5	<b>10</b> (1) 10:1	<b>2013</b> (3) 8:14 11:6	<b>17:25 18:7,18</b> 22:12 37:11	<b>40</b> (1) 40:1
<b>way</b> (1) 29:2	<b>10:00</b> (1) 1:13	<b>37:22</b> <b>2017</b> (11)	<b>37:13 46:6</b> <b>28</b> (1)	<b>41</b> (2) 41:1 44:6
<b>WHEREOF</b> ... 46:18	<b>11</b> (1) 11:1	<b>17:22,25 18:7</b> 18:18 38:2,3	<b>28:1</b> <b>29</b> (3)	<b>42</b> (1) 42:1
<b>wife</b> (1) 40:12	<b>11:32</b> (1) 43:15	<b>38:9 39:8</b> 41:13,23 43:8	<b>29:1 45:7,8</b> <b>2nd</b> (5)	<b>43</b> (1) 43:1
<b>witness</b> (5) 23:19 36:17 38:21 44:4 46:18	<b>11021</b> (1) 2:5 <b>11101</b> (1) 4:19	<b>2018</b> (6) 22:23 27:11,14 38:22,23 39:11	<b>4:17 11:14,17</b> 28:15 29:10	<b>44</b> (1) 44:1 <b>45</b> (1) 45:1

April 27, 2021

Page 56

<b>45-54 (1)</b> 4:10 <b>46 (1)</b> 46:1 <b>4th (5)</b> 30:15,23 31:10 31:16 36:4 <b>4thof (1)</b> 30:11			
--	--	--	--

---

**5**

<b>5 (2)</b> 5:1 44:5 <b>55 (1)</b> 2:4 <b>575 (1)</b> 2:9			
---	--	--	--

---

**6**

<b>6 (1)</b> 6:1			
---------------------	--	--	--

---

**7**

<b>7 (1)</b> 7:1			
---------------------	--	--	--

---

**8**

<b>8 (1)</b> 8:1 <b>8th (1)</b> 27:11			
--	--	--	--

---

**9**

<b>9 (1)</b> 9:1 <b>911 (1)</b> 11:23			
--	--	--	--